

MEMORANDUM

TO: Members, Clark Fork Basin Water Management Task Force (Task Force)
FROM: Gerald Mueller
SUBJECT: Summary of the September 11, 2006 Task Force Meeting
DATE: September 18, 2006

Participants

The following people participated in the Task Force meeting:

Task Force Members:

Harvey Hackett	Bitterroot Water Forum
Fred Lurie	Blackfoot Challenge
Nate Hall	Avista
Jim Dinsmore	Granite Conservation District
Arvid Hiller	Mountain Water Company
Marc M. Spratt	Flathead Conservation District/Flathead Chamber of Commerce
Bill Slack	Flathead Joint Board of Control
Holly Franz	PPL Montana

Staff:

Gerald Mueller	Consensus Associates
Mike McLane	DNRC

Other:

Dr. David Shively	UM Department of Geography
Gary MacLaren	House District 89
Brian Marotz	Montana Fish, Wildlife & Parks (MFWP)

Meeting Agenda

- August 7, 2006 Meeting Summary
- Task Force Membership and Staffing Changes
- Task Force Funding
- House Joint Resolution 3 Implementation Update
- Fish Flow Needs in the Clark Fork River Basin
- Ground Water Conferences
- DNRC Surface/Ground Water Work Group Recommendations
- Policy Paper
- Public Comment
- Next Meeting

August 7, 2006 Meeting Summary

The Task Force made no change to the August 7 meeting summary.

Membership and Staffing Changes

Mike McLane has resigned from DNRC to take a position with MFWP effective October 1. In his new position, Mr. McLane will address water rights issues and water leasing. He may continue to work with the Task Force on behalf of MFWP. Before leaving DNRC, he hopes to have new members appointed to the Task Force to fill the vacancy created by Jay Stucky's resignation and to represent the Flathead Lakers. The Task Force directed Mr. Mueller to

write a letter to Mary Sexton expressing appreciation for Mr. McLane's service to the Task Force.

Task Force Funding

Gerald Mueller reminded the Task Force that it is funded only through June 2007. For it to continue during the next biennium, the Task Force will have to secure funding by the 2007 legislature.

HJR 3 Update

Gerald Mueller passed out a copy of Governor Schweitzer's letter to Bill McDonald, Regional Director of the Pacific Northwest Region of the U.S. Bureau of Reclamation (BOR). See Appendix 1. A meeting has also been scheduled with Mr. McDonald in the DNRC Director's conference room at 10:00 a.m. on Monday, September 25, 2006. Mr. McLane has been asked to develop an agenda for the meeting. He is proposing to include a representative of the Task Force on the agenda to explain the background of HJR 3.

The Task Force asked Mr. Mueller and Mr. McLane to seek a meeting with the state participants prior to the meeting with the BOR to discuss the positions that the DNRC will take in it.

Fish Flow Needs in the Clark Fork River Basin

Brian Marotz, a MFWP fishery biologist based in Kalispell, described how the Clark Fork-Hungry Horse system used to be operated and MFWP's operational goals for it from a fishery perspective. In the past, Montana's two federal reservoirs, Hungry Horse Dam on the South Fork of the Flathead River and Libby Dam on the Kootenai River, were operated to provide flood control from the perspective of the Columbia River system. This caused both Hungry Horse and Libby to be drafted more than necessary to meet local flood control needs. In 1989, for example, Hungry Horse was drafted 189 ft (to 27% of its capacity), significantly dewatering the reservoir and harming the reservoir fishery. After several years, MFWP was able to convince the federal system operators to focus the draft of these reservoirs on local flood control and reduce reservoir drawdowns and improve reservoir refill. The operation was changed to be consistent with Integrated Rule Curves (IRCs) that better balance Montana's fishery interests with flood control and power generation. Today, the Northwest Power and Conservation Council has included this operating strategy in its Columbia Basin Fish and Wildlife Program mainstem amendments. A new flood control strategy called VARQ is central to this operation and has been formally adopted by the US Bureau of Reclamation for Hungry Horse Dam. While VARQ was intended to guide Libby Dam operations, it has not been formally adopted by the Army Corps of Engineers. Montana has built a coalition with the upper Columbia basin Indian tribes and appears to be on the verge of getting the mainstem amendments implemented as a result of the litigation in Federal District Judge Redden's court.

The period of productivity for the fishery in western Montana is generally July through September. With this in mind, starting at the upper end of the Clark Fork basin, Mr. Marotz listed operational goals from a fishery perspective as follows:

- Hungry Horse Reservoir - Accept somewhat higher risk that the reservoir will not fill to avoid spilling water over the dam. Spilling increases gas saturation, violates state water

- quality standards and harms the fishery.
- South Fork of the Flathead River flows - Shift the release of water from Hungry Horse out of the winter into the summer to maintain more stable flows beneath the dam in the South Fork. In the driest 40% of the years, maintain instream flows in the South Fork via a sliding scale from 900 to 400 cubic feet per second (cfs).
- Below the confluence of the north, middle and south forks of the Flathead River, maintain a minimum flow of 3,500 cfs.
- Flathead Lake - Fill the lake earlier and attempt to keep it higher during the July through September period.
- Below Kerr Dam - Accept a sliding scale of minimum river flows in lower flow years that would mimic natural flows instead of the fixed minimum flow now required by the Kerr Dam license conditions.

Ground Water Conferences

Technical Conference - All of the speakers have confirmed their participation. Last week, Mike McLane hosted a conference call among the participants of the last panel which will address Clark Fork Basin ground water management needs. To date only 14 people have registered. Task Force members and staff need to register and pay the \$25 fee which will go to cover food and parking expenses.

Policy Conference - Mr. Mueller announced that the Salish and Kootenai Tribes have declined the Task Force invitation to participate as speakers. Also, Hal Harper, Governor Schweitzer's Chief Policy Advisor, will replace Governor Schweitzer as the luncheon speaker. Mike McLane is still seeking a representative of either the realtor community or the building industry for the third panel.

DNRC Surface/Ground Water Work Group Recommendations

Mike McLane discussed the final recommendations that will be presented this evening to the Montana Environmental Quality Council. He passed out a summary of the recommendations and a draft bill that the DNRC plans to introduce. The recommendations are similar to those discussed previously with the Task Force with the exception of the 35 gallons per minute (gpm)/10 acre feet per year (afy) exemption for domestic wells from water right permitting. DNRC's draft bill would limit the exemption to wells for domestic or commercial purposes that have a flow of 35 gpm and a volume cap of 1 afy. Lawn and garden uses associated with a domestic or commercial use could not exceed one-quarter acre and receive a permit exemption. The existing 35 gpm/10 afy requirements for an exemption for stock water use from a well or developed spring would remain unchanged. Also, the combined appropriation for stock water, domestic, or commercial uses from the same source from two or more wells or developed springs in excess of the respective limits specified above would require a permit. Task Force members noted that the DNRC bill would not resolve the issue with the existing DNRC rule allowing multiple wells from the same source to receive the 35 gpm, 1 afy exemption unless they are manifolded together. Mr. McLane also noted that three participants in the Work Group, the Stock Growers, Farm Bureau and Building Trade Industry, have not signed off on the group's recommendations. Mr. McLane did not bring the Work Group recommendations in bill format, and he promised to circulate the draft bill containing them to the Task Force.

Policy Paper

Because of the lateness of the hour, discussion of the policy paper was postponed until the next meeting.

Public Comment

There was no additional comment.

Next Meeting

The next meeting was scheduled for the second Monday, October 2. The agenda will include the HJ 3 implementation and ground water conference updates, continued discussion of the policy paper on the status of the first-in-time, first-in right water right allocation and management system.

Appendix 1

July 18, 2006

U.S. Bureau of Reclamation
Pacific Northwest Region
Bill McDonald, Regional Director
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234

RE: Hungry Horse Reservoir – Future Contracting Opportunities

Dear Director McDonald:

Representatives of the State of Montana would like to meet with staff from the Bureau of Reclamation, Pacific Northwest Region, to explore opportunities that may exist for future leasing of water stored by the Bureau in Hungry Horse Reservoir. Also, we would ask the Bureau staff to define the process and steps necessary to develop possible agreements for water leasing.

Montana's 59th Legislature passed House Joint Resolution 3 (copy attached) which directed the state to begin this discussion. Specifically, our Department of Natural Resources and Conservation is requested to "enter into negotiations with the United States Bureau of Reclamation to determine availability and cost of water stored behind Hungry Horse Dam for which the State of Montana might contract to support existing water use and future development in the Clark Fork river Basin."

Hungry Horse Reservoir provides multiple regional and basin-wide benefits including flood control, hydropower, recreation, and fisheries together with anadromous fish passage flows. While there are many uses of this stored water, we understand that no contracts currently exist for water delivery.

In addition to discussing opportunities for water contracting and the process necessary to establish such agreements, our meeting might also explore who may participate in these processes, the authorized uses that might be contracted for, and the constraints, from the Bureau's experience, that exist in developing future water contracts from this facility.

The Confederated Salish and Kootenai Tribal government has asked to join this dialog as observers. The Tribes and State, as basin sovereigns, have common interests in water management and in meeting water demands within the Clark Fork of the Columbia River Basin.

We look forward to hearing from you to set an initial meeting date and agenda.

Respectfully,

BRIAN SCHWEITZER
Governor

CC
James Steele, Chairman, Confederated Salish and Kootenai Tribes
Mary Sexton, Director, MT Department of Natural Resources and Conservation
Representative Debby Barrett, Co-chair, Legislative Environmental Quality Council
Representative Christopher Harris, Co-chair Legislative Environmental Quality Council
Jeff Haggner, Director, MT Department of Fish, Wildlife and Parks
Rhonda Whiting, Northwest Power and Conservation Council
Bruce Measure, Northwest Power and Conservation Council